

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

AMY VULK,

Plaintiff,

vs.

NEVADA RESTRAUNT SERVICES,
INC.,

Defendant.

CV 23–38–H–BMM–KLD

ORDER

United States Magistrate Judge Kathleen DeSoto entered her Findings and Recommendations in this case on August 16, 2023. (Doc. 10.) Judge DeSoto recommended that this case be remanded back to the First Judicial District Court, Lewis and Clark County, Montana, based on lack of subject matter jurisdiction. (*Id.*) Judge DeSoto found that Amy Vulk is claiming only \$46,275 in damages and thereby fails to meet the amount in controversy requirement of diversity and alienage subject matter jurisdiction. (*Id.* at 3, 5.)

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313

(9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). The Court finds no error in Judge DeSoto’s Findings and Recommendations and adopts them in full.

ORDER

Accordingly, **IT IS ORDERED:**

1. That this case is **REMANDED** back to the First Judicial District Court, Lewis and Clark County, Montana.
2. The Clerk of Court will close this case.

DATED this 30th day of August 2023.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court